

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PHILLIP TATE,

Plaintiff,

-VS-

SGT. LINDA FADA, et al.,

Defendants.

CASE NO. 1:01 CV 02741

ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION

UNITED STATES DISTRICT JUDGE LESLEY WELLS

Plaintiff Phillip Tate filed this 42 U.S.C. § 1983 action on 5 December 2001. On 28 February 2002, the action was dismissed and Mr. Tate was assessed the \$150.00 filing fee, ordered to be paid in installments pursuant to 28 U.S.C. § 1915(b).

Mr. Tate filed a Motion for Order of Contempt and Sanctions on 21 December 2005, and a Motion for Default Judgment on 6 February 2006, asserting the prison cashier's office had sent payments which exceed, in the aggregate, the \$150.00 filing fee assessed by the court in its 28 February 2002 order. The Court denied those two Motions on 10 April 2006, based on an accounting provided by the Clerk's Finance Office. (Docket No. 16). That accounting indicated exactly \$150.00 was paid in installments in this case.

Mr. Tate filed a Motion for Reconsideration on 21 April 2006, to which he attaches a “payment log” from Ross Correctional Institution (“Ross”). (Docket No. 17)

The log shows that a check for \$109.69 issued on 6 January 2006. On the basis of this log, Mr. Tate again asserts he has paid more than \$150.00 for the filing fee in this case.

The Court again reviewed with its Finance Office to find there was no check ever received by the Court from Ross on this case in the amount of \$109.69. The Court Finance Office indicates that a check from Ross dated January 25, 2006, in the amount of \$57.14, was the final payment for the \$150 filing fee, resulting in a balance due of exactly \$0.00.

Accordingly, the Motion for Reconsideration is denied. The Clerk is directed to serve Mr. Tate and the prison cashier's office at the Ross Correctional Institution, where he is currently incarcerated, with a copy of this Order. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this order could not be taken in good faith.

IT IS SO ORDERED.

/s/Lesley Wells
UNITED STATES DISTRICT JUDGE

Dated: 19 December 2006